

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Saul Martinez,

Complainant,

vs.

Southern California Edison Company,

Defendant.

Case 02-06-037
(Filed June 19, 2002)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

Pursuant to Rules 6(b)(3) and 6.3 of the Commission's Rules of Practice and Procedure,¹ this ruling sets forth the schedule, assigns a presiding hearing officer, and addresses the scope of the proceeding, following a prehearing conference (PHC) held by telephone on September 5, 2002.

Background

Complainant Saul Martinez (Martinez) alleges that defendant Southern California Edison Company (Edison) has improperly held him responsible for \$12,701.54 in electricity usage between May 1998 and October 2000 at agricultural

¹ Unless otherwise indicated, all subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulation and citations to sections refer to the Public Utilities Code.

property in the Terra Bella/Ducor area of Tulare County and improperly imposed a \$5,800 deposit for Martinez to reestablish credit; the total in dispute is \$18,501.54.² Martinez asserts that the electricity usage was incurred by and is the responsibility of SA-MA Citrus, owned by Thomas Savoie. Edison claims that SA-MA Citrus is now out of business and not paying for the electricity, and that Martinez is responsible for payment because he used and benefited from the electric service during the time period in dispute.

Scope of the Proceeding

Based on the complaint and the answer and the representations of counsel at the PHC, it appears that there are a limited number of factual disagreements between the parties. The parties agreed to exchange information on the following topics specified at the PHC without the need for formal discovery, on the schedule set forth below. Martinez will provide information on his use of the property in the periods of May 1998 to mid-September 1998 and June 7, 2000 to the end of August 2000 and any benefit he received from electric service at the property during those periods. He will also provide information on the basis of any dispute about charges prior to May 1998. Edison will provide detailed bills by month for the property, showing the origin of charges alleged to be owed by Martinez, from May 1998 through August 2000; copies of correspondence between Edison and Martinez and/or Savoie during this period; and copies of Edison's phone logs regarding the property for this period.

² In his complaint, Martinez alleged that the amount in dispute was \$19,726.64. At the PHC, the parties agreed that \$18,501.54 was the correct figure.

Evidentiary hearings will be necessary to resolve the disputes that are expected to remain after the parties' exchange of information.

At this time, the material facts in dispute include the following:

- the periods of time during which Martinez was the record owner of the property,³
- the periods of time during which Martinez was in possession of the property;
- the nature and scope of Martinez' use of the property during the period from May 1998 to October 2000;
- the amounts of the bills for electric service during the period in dispute;
- the date of disconnection of electric service to the property and the duration of the service disconnection,⁴ and
- the amount of the deposit Martinez must provide.

The central legal issue in dispute is simple: for how much, if any, of the disputed billings for electric service is Martinez responsible? Although Martinez asserted a claim for consequential damages in his complaint, he withdrew that claim at the PHC.

³ At the PHC, the parties expressed their belief that this question could be resolved through their exchange of information.

⁴ At the PHC, the parties expressed their belief that these questions also could be resolved through their exchange of information.

Discovery

The parties anticipate that all necessary discovery will be accomplished by informal exchange of information. Should any discovery disputes arise, the parties must meet and confer in a good faith effort to resolve them. If that fails, any party may file a written motion in accordance with Rule 45.

Schedule

The parties have agreed to the following schedule for this proceeding, subject to confirmation of the availability of facilities for the hearing:

October 4, 2002	Parties complete exchange of information
November 4, 2002	Complainant and defendant concurrently distribute prepared testimony, with copy to ALJ
November 10, 2002	Edison files notice of intention to present additional testimony, if any
November 15, 2002	Martinez distributes rebuttal testimony, if any
November 15, 2002	Edison submits additional testimony, if any
November 25, 2002 10:00 a.m. to 4:00 p.m.	Evidentiary Hearing at Commission Courtroom, State Office Building, 320 West 4th Street, Los Angeles, California
December 20, 2002	Concurrent initial briefs
January 15, 2003	Concurrent reply briefs, if any; submission of case
March 14, 2003	Presiding Officer's decision filed within 60 days of submission

April 14, 2003	Presiding Officer's decision becomes effective 30 days after mailing (unless appeal filed per § 1701.2(a) and Rule 8.2)
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It is my goal to close this case within the 12-month timeframe for resolution of adjudicatory proceedings and this schedule meets that goal. At this time, I foresee no extraordinary circumstances which would warrant an extension of the schedule.

Category of Proceeding and Need for Hearing

This ruling confirms this case as an adjudication scheduled for hearing, as preliminarily determined by the Commission.

Assignment of Presiding Officer

ALJ Anne Simon will be the presiding officer.

Ex Parte Rules

Ex parte communications are prohibited in adjudicatory proceedings under § 1701.2(b) and Rule 7.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is set forth herein.
3. The presiding officer will be Administrative Law Judge Simon.
4. This ruling confirms that this proceeding is an adjudication scheduled for hearing.

5. Ex parte communications are prohibited under Pub. Util. Code § 1701.2(b) and Rule 7 of the Commission's Rules of Practice and Procedure.

Dated September 13, 2002, at San Francisco, California.

/s/ GEOFFREY F. BROWN

Geoffrey F. Brown
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated September 13, 2002, at San Francisco, California.

/s/ JEANNIE CHANG

Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.